

VERMONT ENVIRONMENTAL BOARD
10 V.S.A., Chapter 151

RE: Quechee Lakes Corporation by C. Daniel Hershenson, Esq.
P.O. Box 909
Norwich, VT 05055-0909

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER
Land Use Permit Applications
#3W0411-EB "Murphy Farm"
#3W0439-EB "Newton Inn"

I. SUMMARY OF PROCEEDINGS

This decision pertains to two appeals filed with the Environmental Board ("the Board") by the Quechee Lakes Corporation ("**QLC**") : an appeal filed December 5, 1984, from a November 7 decision of the District #3 Environmental Commission ("the Commission") in respect to Land Use Permit Application #3W0411; and an appeal filed December 18, 1984, from a December 7 decision of the Commission regarding Land Use Permit Application #3W0439. Both appeals were "**removed**"/1/ to the Windsor Superior Court. By Order dated April 2, 1985, the appeals were remanded to the Board for further proceedings.

On May 6, 1985, a Prehearing Conference was convened with respect to these **appeals**/2/ and Prehearing Orders were issued May 8, 1985. The public hearing in these appeals was convened on May 15, 1985, to hear oral argument with respect to preliminary procedural issues. On May 23, the Board issued a Memorandum of Decision with regard to those procedural issues and that Memorandum is incorporated herein by reference as if fully set forth.

The proceedings were reconvened on May 29, at which time the Board heard testimony from its own **witness**/3/ and witnesses called by the parties concerning the generic question: how do professionals in the field of architecture and landscape architecture analyze projects (and specifically housing projects)

/1/ The removals were taken pursuant to now superseded provisions of 10 V.S.A. § 6089.

/2/ The Prehearing Conference and the public hearings convened on May 15 and May 29, pertained to the Murphy Farm and Newton Inn appeals, together with a third companion appeal, #3W0364-1A-EB--"Ridge Condominiums. All parties agreed to a continuance of further proceedings in regard to the Ridge Condominiums until the completion of our proceedings on the Murphy Farm and Newton Inn cases.

/3/ Pursuant to Board Rule ("**EBR**") 20(B), the Board secured the services of a landscape architect employed by the University of Vermont, to provide the Board with testimony concerning 10 V.S.A. § 6086(a)(8).

with regard to aesthetics and scenic and natural beauty? The Board then issued a Memorandum of Decision dated June 4, 1985, indicating that, in view of the common issues presented in the Murphy Farm and Newton Inn cases, those two appeals would be handled concurrently.

Hearings were reconvened on the two appeals on June 19, July 10, July 30, August 21, and August 28. The following participated as parties at the hearings:

Appellant QLC by C. Daniel Hershenson, Esq.;
The Town of Hartford Planning Commission by Raymond Belair;
The Upper Valley-Lake Sunapee Regional Commission by Tad Radway;
The State of Vermont Agency of Environmental Conservation by Philip K. Dodd, Esq.;
The Quechee Lakes Landowners Association ("QLLA") by Alfred Guarino, Jr., Esq.;
Beverly and Burton Foster, Dr. Bernard Grossman, and Thomas Hoffman ("Foster et al.") by Robert J. O'Donnell, Esq.;
Edward Doolan;
James Lightburn;
Dene Bernstein;
Esther Feldberg
Virginia Moriarty;
Landmark and Greenway Village Homeowners Association by Geri Cyr.

The Board conducted a guided visit of the Quechee Valley, stopping at sites selected by the parties. The hearing was recessed on August 28, pending the filing of proposed findings by the parties, a review of the record for completeness, and deliberation. Requests to find were filed by Foster et al. on September 12, and by the Applicant on September 13. QLLA filed "Closing Argument" on September 16.

Based upon a review of the record and the proposed findings, **the** Board concluded that additional testimony under Criterion 5 was required with regard to traffic safety and congestion at the proposed Newton Inn access unto U.S. Route 4. Therefore, on October 9, 1985, the proceedings were reconvened to hear testimony from an Agency of Transportation witness. On October 15, Foster et al. filed a written offer of proof with regard to the need for additional Criterion 5 testimony and the Applicant responded to the offer on the same date. By memorandum dated October 24, the Board declined to hear additional testimony.

On October 31, 1985, the Board determined the record complete and adjourned the hearing. **This matter is now ready for decision. The following findings of fact and conclusions of law are based upon the record developed at the hearing. To the**

extent that we agreed with and found necessary any findings proposed by the parties, those findings have been incorporated herein; otherwise, said requests to find are hereby denied.

II. ISSUES IN THE APPEALS

A. Newton Inn

The Newton Inn application consists of three components: the Inn building itself, "guest suites" operated by the Inn, and condominium units. With regard to traffic safety and congestion (Criterion 5 of 10 V.S.A. § 6086(a)) and impact on Route 4 as a "public investment" (Criterion 9(K)), the Commission rendered negative findings, denied a proposed access to Route 4 and approved an access to the project via an existing roadway, **Lakeland Drive**.

Under Criterion 8, the Commission rendered affirmative findings and issued a Land Use Permit approving Newton Condominium Buildings 4, 5, 6 and 7, a pitch and putt golf course, tennis courts, and the removal of existing farm structures. However, the Commission issued negative findings and denied approval of the Newton Inn, the guest suites, and Newton Condominium Buildings 1, 2 and 3.

QLC believes the Commission erred in denying approval of the Inn, the suites, Condominium Buildings 1, 2, and 3, and the Route 4 access. QLLA generally supports the position of QLC. Foster et al. support the decision rendered by the Commission. Therefore, the Commission's approval of Buildings 4, 5, 6 and 7 and related amenities was not in dispute on appeal.

B. Murphy Farm

The Murphy Farm project consists of three components: improvements to and expansion of the Murphy farmstead, construction of four condominium clusters (the "upper tier" to the west of the farmstead) with related facilities, and construction of seven condominium clusters surrounding a reconstructed 12th hole at the **Lakeland Golf Course**. The Commission approved the upper tier condominiums and the expanded 12th hole. However, the Commission denied approval of the Murphy Farmstead and the golf course condominiums.

QLC believes the Commission erred in refusing approval to the Murphy Farmstead and the golf course units. QLLA supports the expansion of **Lakeland Golf Course** and its Board has approved the condominium units as well. Foster et al. seek affirmation of the Commission's decision. Therefore, improvements to the golf course and construction of the upper tier units were not at issue between the parties on appeal.

III. FINDINGS OF FACT

A. The Quechee Valley

1. The three proposed condominium projects would lie on the interior portion of a broad, horseshoe-shaped turn of the Ottauquechee River, west of the Village of Quechee in Hartland, Vermont. The Village consists of several restored, historically significant homes and commercial structures. Route 4, which travels in a generally east-west direction, is the principal means of access to Quechee from White River Junction to the east and Woodstock to the west.
2. The Ottauquechee lies on the floor of a broad valley and hills rising on all sides of the valley provide panoramic views of the surrounding area. Beyond the valley floor itself, much of the surrounding countryside is dominated by farmsteads and forest.
3. QLC owns 6,000 acres in and around the Ottauquechee Valley. The QLC "**masterplan**" envisions a total of 2,000 detached homes (at an average density of one unit for every ten acres) and 500 condominium units (at a density of four units per acre) resulting in an overall density of one unit for every 2.4 acres. Housing units would be confined to 3,000 of-the 6,000 QLC acres.
4. The residual 3,000 acres will be dedicated to various "**Greenbelt**" uses including golf courses, green space within condominium clusters, meadow areas, and a 1,200 acre wildlife area. The number of residential units and the ratio of developed land to "**greenbelt**" land has remained relatively unchanged since the inception of the QLC project in 1970.
5. This portion of the Quechee Valley has become a residential second home and vacation resort area and can no longer be characterized as a pastoral Vermont river valley. Dominant features of the Valley include golf courses, a clubhouse, the Quechee Inn, the plastic-lined artificial Lake Pineo with its sand beach and beachhouse, tennis courts, a small ski hill with lift, a highly visible high voltage utility line, and various amenities including access drives, sidewalks, and a tertiary sewage treatment plant.
6. A number of early residential housing clusters developed by QLC were designed in a fashion (known as the "Quechee Concept") to minimize the visibility of structures when viewed from the valley floor, and to minimize the consumption of open pastureland. Kingswood, Snow Village, **Birch-**wood, and Quechee Hollow are situated in a manner to reduce their impact on the natural features of the Valley. For example, when Snow Village was developed, individual

building sites were flagged prior to construction and their aesthetic impact was judged from the Valley floor before structures were erected.

7. However, these efforts to "hide" structures within existing vegetation have receded in recent years. With the addition of the Saltbox Condominiums in 1974 and the development of Windsor, Landmark, and Dartmouth Place thereafter, condominium units have become a prominent, integral component of the Valley landscape. In the approximately 90 acre area surrounding the Murphy and Newton sites, 260 condominium units have been erected.
8. In summary, the context into which QLC proposes to introduce the Murphy, Newton and Golf Course projects is dominated by man-made features placed within a natural, river valley setting. A visitor to the Quechee Valley is struck with the proliferation of housing structures and associated amenities. The development of the Valley since at least 1974 has been oriented toward establishing a recreational resort community with quite visible, newly constructed features which compete with natural scenery, eliminating all but a few traces of the pastoral character which dominated **Quechee's** past.

B. The Newton Inn Project

9. Land Use Permit Application #3W0439-EB seeks approval for the construction of the Newton Inn project on a 19 acre portion of a 5,200 acre tract of land owned by QLC adjacent to U.S. Route 4 in the Town of Hartford, Vermont. The project has three components: the Newton Inn structure itself, 25 detached guest suites, and 35 condominium units.
10. The Newton Inn building would have a total length of 166', a width of 75', a front (south) elevation at the roof peak of 25' and a rear (north) elevation of 37' at the peak. The structure's main level would include an entryway, an office, a retail shop, storage areas, a 28 seat bar, a 92 seat dining room with dining deck, restrooms, lobby, and pool-hot tub area. The lower level (consisting of approximately one-half the floor space of the main level) would contain meeting rooms, storage areas, and utility rooms.
11. One cluster of six rental suites would be placed east of the Inn and three clusters would be located west of the Inn, containing nine, six and four units for a total of 25 suites. The suite clusters are detached from the Inn but would be operated as single rooms in association with a hotel-like operation from the Inn's main desk. Each suite consists of one bedroom, a living room and a bath. The suites would have a maximum height of 33' (peak - north elevation) and a minimum height of 24' (peak - south elevation). A circular driveway-parking area (with 67 parking spaces) would be shared by the Inn and suites.

12. Newton Village would consist of seven condominium clusters: Building 1 with four units, Building 2 with four units, Building 3 with seven units, Building 4 with six units, Building 5 with six units, Building 6 with four units and Building 7 with four units for a total of 35 units. Amenities associated with the condominiums would include access driveways, parking areas, pathways, two tennis courts, a deck tennis court, and a two-hole pitch and putt golf course.
13. The Newton site slopes gradually from a high elevation of 738' in the southwest corner of the site, to a low point of 650' in the northeast corner of the site. Prior to QLC's execution of an option with the current property owner, a farmhouse and associated barns and outbuildings were located on the site. These buildings have been or will be removed in association with the Newton project. An apple orchard lies in the southwest corner of the site and several old stonewalls lie in the area adjacent to U.S. Route 4. This upper plateau has the general appearance of old pasture land with several rock outcroppings. The lower portion of the site is dominated by an unsightly gravel pit and dump area used over the years by QLC.
14. The Newton project's components are dispersed over the site resulting in the location of structures at a variety of levels on the gradually sloping hillside. The Inn and guest suites would be placed on a relatively flat terrace surrounding a knoll located at the highest point on the project site. The Inn and suites would generally face U.S. Route 4 which forms the southerly boundary of the site. Structures would lie within 160' of Route 4 at the closest point and 520' at the farthest point. The highest floor elevation in the Inn area would be 732' (seven of the nine suites in the southwesterly-most cluster), the Inn base elevation would be 714' (the lower level), and the lowest floor elevation would be 707' (the easterly-most suites).
15. Condominium Building 3 would lie at approximately the same elevation as the Inn building and the two suite clusters adjacent to the Inn (elevation 710'-714'). However, Buildings 1 and 2 would lie a step lower (average floor elevation of 685'). Building 5 would lie at an elevation approximately five feet lower than Buildings 1 and 2 (680'); Building 4 would lie still one step below Building 5 (675'); finally, Building 6 would lie on the lowest terrace (elevation 665').
16. Most of the detached units and suites would be built into the sloping hillside with the up-hill floor elevation lying approximately nine feet higher than the down-hill base

elevation. This results in a significantly higher building elevation when the project is viewed from the north. Twenty-three of the 35 condominium units, ten of the 25 suites, and the Inn building will be constructed into the hillside in this fashion.

17. The Applicant proposes to preserve most of the existing stonewall found on the southerly, upper portion of the site. Only 135' of the approximately 1,650' lineal feet of wall will be removed, 130' of the wall requires rebuilding, and QLC would construct an additional 110' of wall. An old apple orchard measuring approximately 220' by 100' and enclosed by old stone walls will be retained by QLC.
18. The Newton Inn planting plan attempts to retain much of the existing vegetation which lies along the project's periphery. Some vegetation would be removed in a pocket near the northeast corner of the project to permit construction of Buildings 6 and 7, and trees would be removed in the southwest corner of the site to permit installation of the parking circle near the Inn. However, most existing vegetation south of the Inn site would be retained (including the orchard) and a margin of trees near Lakeland drive would remain.
19. Extensive planting is proposed by QLC. The area along Route 4 would be supplemented with a line of black locusts (8), Austrian pines (14) and lilacs. Eleven sugar maples would line both sides of the Inn access drive from Route 4. White ash and crab apples would also be planted in this area. The area enclosed by the drive/parking circle would be planted with white pine (11) and white birch (5), supplementing trees to be retained in that area.
20. The westerly property line would be planted with an irregular line of 56 white pines, supplemented by sugar maples, and serviceberry. The easterly line is already covered with existing vegetation. The northerly line, along Lakeland Drive, would be planted primarily with white pine (21) and red oak (17) mixing with existing vegetation and a few crab apples, sugar maples and white birches to be planted by QLC.
21. The interior of the project, building clusters and other amenities would be planted with a variety of species. Sugar maples would line the main walkway from the Inn to the tennis courts, and white pine, white birch clusters, sugar maples, red oaks and crab apples would be planted throughout.
22. The planting plan calls for all pines to be in the 6' to 8' height range when planted; the maple, ash and oak to be in the 2.5" to 4" caliper range with some with a 5" caliper; the birch in the minimum height range of 12', and 6' for the crabs.

23. The project site is surrounded on three sides by existing condominium projects. The Landmark and Greensway projects lie to the west and southwest of the site, Windsor Village lies to the south, and, on the other side of an existing tree buffer, the Deere Run project lies on the east. The area across Route 4 on the south remains open field. South of the fields, in a hilly, wooded area, lies a residential subdivision not readily visible from Route 4.
24. The design of the Newton Inn and suites are compatible with their surroundings; the architecture is of a style typical of resort communities. While the Inn is a large structure, its scale is not disproportionate when compared to the physical surroundings or other existing structures such as the Quechee Club. The scale has been reduced by the use of detached suites, rather than a single, all-inclusive hotel structure. The Inn's mass has been successfully mitigated by the breaking up of roof lines, the use of multiple levels and through the use of stone and vegetation. Similarly, the suites have been broken into four clusters with each pair of suites being staggered from its neighbor, reducing the apparent mass of the buildings.
25. The Newton Condominiums have been treated in a similar manner. The units have been divided among seven clusters with between four and seven units in each cluster. Again, the units within each cluster have been staggered reducing the appearance of mass, and the clusters have been dispersed throughout the site in a manner which establishes a scale appropriate to the area. The architectural style is similar to and compatible with units within the surrounding condominium projects.
26. The Newton project as a whole has made good use of the sloping, terraced nature of the site by locating different structures at different levels, maximizing the project's adaptation to the terrain. The density of land use is similar to the density of condominium projects in the immediate vicinity of the Newton site.
27. QLC has selected medium brown as the predominant exterior color, a color which should have the least visual impact. Roofs will be a neutral grey color. The amount of glass used in the suites and condominiums is not atypical and, because of the manner in which structures are segmented and separated from each other, glass should not be an obtrusive feature. The Inn uses a large amount of glass on the southern facade but existing vegetation and trees to be planted by QLC will greatly reduce the visibility of this glass. **The north facade of the Inn uses significantly less glass.** QLC has represented that glare from the glass will not create an adverse aesthetic impact.

28. The Inn building and, to a lesser extent, the suites will be visible to travelers on Route 4. However, views of these structures will be quite brief in duration, the buildings will be partially obstructed by existing and new trees, and the visual impact has been reduced by using techniques which reduce mass.
29. The Inn, the suites, and the condominiums will be visible from various observation points in the Valley. However, the site is a substantial distance from these viewing points. Intermittent views of the site would exist from River Road north and east of the project site but the Road is a minimum of 3,000' away. Similarly, the Quechee Club lies 3,500' away, Dutton Hill is at least 4,750' away and the top of the ski hill is 6,750' away from the site. Residences in the Dutton Hill/Ski Hill area, from which the Newton project may be visible, are generally more than 5,000' from the site.
30. Therefore, while the project would be identifiable to the knowledgeable viewer seeking out the Newton project, it would be virtually indistinguishable from the nearby Landmark, Greensway, Lakeland and Windsor Village projects when viewed from these substantial distances. Views of the project would be in the far middleground of the observer's field and would not be a particularly distinct component of the general viewscape.
31. The Newton project will consume some existing open space. However, a portion of the existing open space (the gravel pit/dump) has poor aesthetic qualities (for which QLC is in part responsible) and the proposal seeks to preserve green areas within the project boundaries: the "Pitch 'n' Putt" area and green spaces between building clusters.
32. Furthermore, the QLC Masterplan envisions the preservation of 3,000 acres of "greenspace" to be preserved in perpetuity free of encroachment by buildings and other structures. This greenspace will consist of a mix of open areas between housing clusters, golf course areas, field areas, and wildlife preserves. We rely heavily upon the preservation of this acreage in finding that the project does not use existing open space in an inappropriate manner. Because of this reliance, we will condition our approval of the Newton project upon the submission by QLC of a comprehensive open space preservation plan for its existing land holdings.
33. Based upon the above findings, and the analysis set forth in our Conclusions of Law, we further find that the project will not have an undue adverse impact on the aesthetics or the scenic and natural beauty of the area.

C. The Murphy Farm Project

34. What QLC refers to as the "Murphy Farm Project" consists of three parts:
- a) the Golf Course (or "**Fox** Hollow") project--see findings 50 through 61, below.
 - b) the Murphy Farmstead renovation involving expansion and conversion of an existing structure and the construction of two additional buildings, all to house residential condominiums;
 - c) the Murphy Condominiums consisting of 16 condominium units in four clusters to be located on a plateau above and west of the **farmstead**.^{/4/}

This section of the Board's findings pertains only to the Murphy Farmstead.

35. The Murphy Farmstead site lies on the shores of Lake Pineo, an artificial impoundment created by QLC through the temporary diversion of waters from the nearby Ottauquechee River. There are several improvements now on the site: an attractive farmhouse constructed in the mid- to late 1800s, a small barn probably constructed around 1950, a **garage**-like building near the shores of Lake Pineo, and a swimming pool which is in a state of disrepair.
36. QLC proposes to construct a 25' by 45', two-story addition to the existing farmhouse. The expanded building would be renovated to accommodate three condominium units. The farmhouse renovation involves the selection of **architect**-ure, colors and materials similar to the existing farmhouse design. The existing access drive to the farm complex would be re-routed to the rear of the house and six parking spaces would be added south of the house.
37. QLC proposes to remove the existing barn and swimming pool. In the approximate location of the razed barn, a two-story, barn-like structure would be erected, containing four

^{/4/}As noted earlier, no party has appealed the Commission's issuance of a Land Use Permit approving the 16 Murphy condominiums of the upper tier, nor has anyone appealed the Commission's approval of a tennis court, a swimming pool, and the reconstruction of the **Lakeland** Golf Course's 12th hole. Therefore, these approvals are not at issue in this appeal.

condominium units (Building 5). A slightly shorter, L-shaped addition to Building 5 would contain a fifth unit and a shed-like extension of the L would house a five-car garage. The main structure of Building 5 would be 33' high at the peak (42' to the top of two cupolas mounted on the roof ridge), 33' wide and 96' long. The L addition would be 26' high with a 49' by 24' floor print. The garage would be 21' high with floor dimensions of 50' by 24'. A cylindrically-shaped 34' high silo-like structure with a diameter of 13' would be erected on the east side of Building 5 at its junction with the L addition.

38. QLC would erect a third building, Building 6, between the farmhouse and Building 5, but offset slightly toward the Lake. The floor print and basic design of Building 6 would be similar to that of Building 5 (with some design detail changes), but Building 6 would be slightly shorter, being 31' at the ridge (and 39' to the top of two cupolas). Building 6 would house four condominium units, and a four-car garage serving the building would be located across an entry drive courtyard from Building 6.
39. The farmhouse and Building 5 would lie 120' away from Lake Pineo at their closest points and Building 6 would lie within 100' of the Lake. The existing garage building would be renovated for use as an "amenities building," and the Lake shore would be improved for use as a beach, with a gazebo extending 60' out into the Lake. The east or Lake side of Buildings 5 and 6 would include the installation of terraces. A swimming pool and tennis court would be constructed directly west of Building 5's garage.
40. The planting plan for the Murphy Farmstead provides for retaining an existing, dense tree buffer which is growing on the bank to the east and south of the site. Only minimal cutting will occur: the buffer will be cut to allow installation of the Building 6 garage and 18" and 24' maples will be removed to allow the re-routed driveway to pass behind the farmhouse.
41. Very little new planting will occur around the farmhouse due to the existing spruce, maple and lilac around the building. Lilac and yews will be planted along the new driveway and three sugar maples will be planted north of the house. The driveway courtyard in front of Building 6 will be planted with birch, Washington thorn, and a variety of low, ornamental plants.
42. Five weeping willows will be planted along the lakeshore in front of Building 6, and sugar maples and crab apples will be planted at the building's end. Washington thorns will be planted, two in the front and two in the rear, close to Building 6. Both ends of Building 5 will also be planted

with sugar maples, and crab apples would be planted on the building's lake side. A 25 tree apple orchard would be planted in a concentrated area north of the tennis court.

43. Lake Pineo is the primary feature east of the project site, with the **Lakeland** Golf Course on the far shore. The golf course and the Ottauguechee River lie to the north of the project beyond an open field. Beyond the 16 new Murphy condominiums to be built west of the farmstead, lies the **Lakeland** Village project. To the south of the farmstead lies the beach, beach house and proposed site of the golf course condominiums.
44. QLC has been careful in its proposals concerning the Murphy homestead to maintain existing architectural style, materials and colors. The planting plan is similarly adjusted to the historic style represented by the existing dwelling. The proposed addition is of a scale similar to the existing building. The QLC proposal for this building is compatible with historic patterns and existing use.
45. The existing barn is not an aesthetically strong feature. Its design is not especially attractive, it is not similar to other barns in the area, it is not a typical Vermont barn and its scale is quite small in comparison to other barns in the Valley. Therefore, the removal of the existing barn will have little impact on the site's scenic features.
46. While the Murphy site is the most sensitive and most prominent of the three project sites before the Board, **QLC's** response to this challenge has been to use extreme caution in selecting design features properly adapted to the site. The barn-like condominium structures are of a design, scale and color similar to other barns in the area. Few people viewing these structures would believe that their use was for agricultural purposes, yet the flavor introduced by the design of buildings 5 and 6 will be of farming.
47. Buildings 5 and 6 are massive structures but their mass and scale are consistent with an attempt to induce a barn-like feeling. The project's low density is quite reasonable for the site: only three units will be placed in the house and an additional nine will be located in the barn buildings.
48. The Murphy site is significantly closer than the Newton site to the observation points identified in Finding #29, above. However, it is shielded from view somewhat by the tree-lined bank to the west of the site. Further, the design and density of the proposed project will cause them to adapt more readily in the viewer's eye to the natural landscape. The Murphy project only marginally infringes

upon existing open space. Building 4 will be located on the site of the existing barn. Building 5 will consume a limited amount of open space. The project as a whole should appear similar to a collection of farm buildings with a central courtyard area and a field extending beyond an orchard to the north of the site.

49. Based upon the above findings and the analysis set forth in our Conclusions of Law, we further find that the Murphy project will not have an adverse impact on the aesthetics and the scenic and natural beauty of the area.

D. Golf Course Condominiums ("Fox Run")

50. The Fox Run site is dominated by a horseshoe-shaped, steep hillside surrounding the western end of the parcel. This bowl-like effect was apparently created when the area was used as a sand and gravel source during the construction of Interstate 89. The central and eastern portion of the tract is relatively flat, while at the western end the land rises gradually to a plateau before climbing the steep bank.
51. QLC proposes to construct seven condominium buildings tucked back against the base of the bank, conforming with the horseshoe shape of the parcel's topography. **Twenty-**four condominium units would be constructed, four **three-**unit buildings and three four-unit buildings. The area at the base of the hill would be regraded to form a berm. Buildings would be situated with rear entrances at grade with the top of the berm at the base of the hill, giving the appearance of a one-story structure. Because the buildings will be built into the front slope of the berm, a lower level will be constructed at-grade with the base of the berm giving the appearance of a two-story structure from the front.
52. The units will be 22' high at the peak when viewed from the rear and 30' at the peak when viewed from the front. Access to the project will be via a driveway entering onto Murphy Road which forms the site's northeasterly boundary. The driveway will be constructed at the base of the hillside to the rear of the units. Garages and entryways would be constructed at the rear of each unit.
53. The main portion of the site would be occupied by new 11th and 12th holes for the **Lakeland** Golf Course. Elevated tees for the 12th hole would be constructed part way up the hillside at the westerly property line. The site would be regraded for the installation of three ponds and undulations in the golf course.
54. A dense blanket of vegetation screens the westerly portion of the site and covers the steep hillside. Vegetation would be removed along the fringe (to an average depth of

approximately 40') to permit the installation of the driveway at the rear of the buildings. Clumps of vegetation along the southern property line would also be removed. Landscaped berms, planted with sugar maple, birch, pin oak, white pine, and hawthorn, would be established in the areas in front of Buildings 1, 2, 3, and 4. Similar berms would be created to the east and north of Buildings 1 and 2, protecting them from Murphy Road. A variety of ornamental plants would be located around building foundations and in courtyards to the rear of each unit.

55. Murphy Road, Lake Pineo, the beach, and **Lakeland** Golf Course lie to the northeast of the site. Windsor Village and Deere Run lie west and southwest of the project, separated from Fox Run by the vegetated hillside.
56. The proposed condominiums are of an architectural style well suited to their location: surrounding a golf hole. The units are similar in design to other structures within the Quechee resort area. The project is neatly acclimated to the site in that units are tucked into the base of the horseshoe-shaped hill with a minimum disturbance of the existing vegetative backdrop. Building mass is appropriately distributed among several buildings whose scale is similar to surrounding condominium projects.
57. The brown exterior tone chosen for the units should blend well with surrounding natural features. The buildings use a significant amount of glass, especially on the interior side of the horseshoe configuration. However, the impact of glass is minimized by the fact that most units face the interior of the horseshoe with minimal exposure to outside observation. Further, the use of landscaped berms and planting of trees should minimize the impact of glass.
58. The Golf Course project will likely be the least visible of the projects to outside observers. The units will be visible from the beach area; however, most beach users will be oriented toward the Lake, rather than toward the new condominiums. Units may also be visible from the River Road and portions of Quechee Village. However, the distance from these observation points is substantial (approximately 3,000') and implementation of landscaping should reduce the visibility of the project.
59. The project will consume additional open space in an area where open space is being rapidly depleted. However, this use has been minimized to some extent by locating structures at the extreme edge of the site while reserving the **central and eastern portion of the site** for an open space use.
60. Furthermore, as we found in Finding #32, above, the Applicant will preserve 3,000 acres in perpetuity as open space free of development. Our finding that the loss of open

space to this project will not have an undue adverse impact is contingent upon the Applicant's representations concerning open space preservation. Our permit will be conditioned appropriately.

61. Based upon the above findings and the analysis set forth in our Conclusions of Law, we find that the project will not have an undue adverse impact on aesthetics and scenic and natural beauty.

E. Newton Inn: Criteria 5 and 9(K) - Traffic and Impact on Public Investments

62. QLC proposes to provide access to the Newton Inn by way of an access drive running north from Route 4, approximately 120' east of Chester A. Arthur Road (T.H. #190). QLC's traffic engineer estimates that the entire Newton complex will generate 740 vehicle trips on an average day, with 70 vehicles entering and 75 vehicles exiting during the 'design hour.'/5/
63. These generation estimates assume an occupancy rate of 65%, the yearly average for similar facilities according to statistics provided by the Department of Development and Community Affairs. Furthermore, although QLC representatives testified that they may use the Inn as the permanent rental office for the entire Quechee Lakes resort (currently between 300 and 400 rental units), the traffic generation figures do not include trips generated by rental activity./6/
64. Using the generation figures identified above, the QLC engineer determined that the level of service (LOS) for left turns into the Inn from Route 4 and right turns onto Route 4 from the Inn were both "A."/7/ LOS for left turns onto Route 4 from the Inn were rated LOS "C."

/5/ The "design hour" is the 30th highest hourly volume of traffic experienced in any given one year period. The design hour reflects only slightly lower volume than the peak hour (the highest hourly volume).

/6/ While the Inn generation rates were doubled beyond the rate suggested by the Institute of Traffic Engineers, this was done to account for use of meeting rooms, not with rental office traffic in mind.

/7/ LOS refers to the ease of vehicle operation on a roadway or in an intersection. "A" means little or no delay is encountered; "B" means slight delay is encountered; "C" means average delay will occur; "D" means regular and significant delay; and "E" means unacceptable conditions.

65. Route 4 from Quechee Village to Woodstock generally has a 24' wide travel portion, 3' to 4' wide paved or gravelled shoulders which do not permit passing along the road's shoulder, and there is no area within which to pass in the entire road segment. The segment's accident rate is 1.33 accidents per million vehicle miles, less than the State-wide average for similar roads (1.929 accidents per million vehicle miles). This portion of Route 4 is one of the highest volume rural segments in the State, experiencing an average daily volume of 6,194 vehicles compared to a State average of 2,444.
66. Route 4 from Woodstock to Quechee is rated LOS "E" because of the high traffic volume and the absence of opportunities to pass slow-moving vehicles. The Agency of Transportation has just initiated a major planning effort to determine appropriate remedies for the poor traffic conditions on Route 4.
67. The access driveway would have a 550' sight distance to the west and 710' to the east. The minimum acceptable sight distance as determined by the Agency of Transportation for this segment is 550'. Snow along the roadside would reduce these sight distances. QLC proposes to "shave" the bank along the southerly side of Route 4, west of the access road, in an effort to improve sight distance to the west. However, because the road swings around a curve and drops in elevation just west of the access drive, this remedial action may not be productive. Sight distances at Lakeland Drive are 610' to the west and 770' to the east.
68. Because new access points onto state highways increase the number of contact points where vehicles meet, and because an increase in contact points normally results in increased accident experience and lower operating efficiency, the Transportation Board has adopted a policy limiting the number of state highway entrances and exits. The Agency generally authorizes only a single access point for each property adjoining the road, the Agency looks to the availability of access via other public roads, and the Agency encourages the construction of collector roads when property is subdivided.
69. Access to the project will also be provided from Lakeland Road, north of the project site. QLC controls a right-of-way running easterly to Lakeland Drive from the project site but does not view use of this access as a feasible alternative because of a ravine located to the east of the Inn. While a bridge would be possible, QLC regards this alternative as excessive. Finally, fill could be introduced to traverse the ravine but the easement is insufficiently wide to permit this filling. QLC provided no

evidence of efforts to secure alternative easement arrangements, nor did it provide evidence concerning use of the northerly **Lakeland** Drive entrance (or any other entrance aside from Route 4) as the primary access to the Inn and condominiums.

70. Because each additional access point onto Route 4 increases vehicle contact points and potentially reduces the operational safety of that roadway and because QLC has alternative, available means of access via **Lakeland** Drive, the proposed Inn access will unnecessarily endanger the public's investment in Route 4.

IV. CONCLUSIONS OF LAW

A. Aesthetics and Scenic and Natural Beauty

Before turning to the individual projects, it is appropriate to first articulate our understanding of the phrase "undue adverse effect on the scenic or natural beauty of the area [or] aesthetics," the clause we must apply in judging these applications under 10 V.S.A. § 6086(a)(8).

We have previously described our understanding of the terms found in this clause:

The term "**undue**" generally means that which is more than necessary--exceeding what is appropriate or normal. The word "adverse" means unfavorable, opposed, hostile. "Scenic and natural beauty" pertain to the pleasing qualities that emanate from nature and the Vermont landscape. In short, through Criterion 8 the Legislature has directed that no project within our jurisdiction be approved if it has an unnecessary or inappropriate negative impact on the enjoyment of surrounding natural and scenic qualities.

Re: Brattleboro Chalet Motor Lodge, Inc., #4C0581-EB issued October 17, 1984. While this description helps in understanding the terminology of Criterion 8, it does not identify the process which we believe appropriate in applying this terminology to specific projects.

During the Board's first substantive hearing in these appeals, we called our own witness to provide assistance to the Board in understanding how professionals in the field of architecture and landscape design interpret Criterion 8 and how they evaluate aesthetic considerations in designing a project. All

parties were invited to present similar, generic testimony. We were struck by the commonality of understanding by professionals in this field concerning the considerations one applies in evaluating the aesthetic impacts of new developments. Our approach to aesthetics analysis is based upon this common understanding.

In judging the impact of a proposed project on the values described in Criterion 8, the cornerstone is the question: Will the proposed project be in harmony with its surroundings--will it "**fit**" the context within which it **will be located**? Several specific features must be evaluated in answering this question:

- 1) What is the nature of the project's surroundings? Is the project to be located in an urban, suburban, village, rural or recreational resort area? What land **uses presently** exist? What is the topography like? What structures exist in the area? What vegetation is prevalent? Does the area have particular scenic values?
- 2) Is the project's design compatible with its surroundings? Is the architectural style of the buildings compatible with other buildings in the area? Is the scale of the project appropriate to its surroundings? Is the mass of structures proposed for the site consistent with land use and density patterns in the vicinity?
- 3) Are the colors and materials selected for the project suitable for the context within which the project will be located?
- 4) Where can the project be seen from? Will the project be in the viewer's foreground, middleground or background? Is the viewer likely to be stationary so that the view is of long duration, or will the viewer be moving quickly by the site so that the length of view is short?
- 5) What is the project's impact on open space in the area? Will it maintain existing open areas, or will it contribute to a loss of open space?

All of these factors must be weighed collectively in deciding whether the proposed project is in harmony with--i.e., "**fits**"--its surroundings. The land uses **which** surround a project are crucial to the analysis. The same building which may add to the aesthetic qualities of an urban area may detract from those qualities in a rural setting, because the context is different. The visual impact of a single large building may be lessened if its mass is broken up into several smaller structures. A building which may project itself toward the viewer

because it is painted white or red, may tend to recede into the background if it were painted in darker tones. Loss of open space areas tends to be "adverse" from a strictly aesthetic standpoint, because open space is an important feature in the scenic beauty of Vermont.

The expert witnesses agreed that certain types of land forms are especially sensitive to change, because these land forms tend to be visible from a wide area or they are seen by large numbers of people. These sensitive areas include **ridge-**lines, steep slopes, shorelines and floodplains. Other features are sensitive because they are aesthetically unique; examples may include historic structures, wetlands and natural areas. In evaluating a project proposed in a sensitive area, the Board and District Commissions should give special attention in assessing whether the scenic qualities of these sites will be maintained.

If after a collective analysis of these factors, we conclude that the proposed project would have an adverse impact on the aesthetics or scenic or natural beauty of the area, the next step is to determine whether the adverse impact is "undue." We conclude that an adverse impact is undue, and therefore violates Criterion 8, if we reach a positive conclusion with regard to any one of the following:

- 1) Does the project violate a clear, written community standard intended to preserve the aesthetics or scenic, natural beauty of the area? Such standards may, for example, be set forth in the local or regional/**plan**, or be adopted in the creation of an historic design district, or be incorporated into a municipal or State scenic road designation. If the Board or Commissions find that such standards do exist, and that the project as designed would violate those standards, the adverse impact would be undue.
- 2) Does the project offend the sensibilities of the average person? The Legislature has directed the Commissions and this Board, composed of lay people from many different communities within Vermont, to determine what is acceptable in terms of new developments' impact on aesthetics and scenic and natural beauty. If our sensibilities are, collectively, offended by a project, its impact under Criterion 8 is undue. It is not enough that we might prefer to see a different design or style of building, or that we might prefer a different type of land use, but that the project, when viewed as a whole, is offensive or shocking, because it is out of character with its surroundings, or significantly diminishes the scenic qualities of the area.

- 3) Has the Applicant failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the proposed project with its surroundings? Such steps may include selection of less obtrusive colors and building materials, implementation of a landscaping plan, selection of a less obtrusive building site within the project area, or reduction of the mass or density of a project. If there are reasonable alternatives available to the Applicant that would mitigate the adverse impact of the project, failure to take advantage of those alternatives may, in some circumstances, render undue an otherwise acceptable aesthetic impact.

In summary, we approach the Criterion 8 evaluation of the Quechee projects by first deciding whether or not those projects are in harmony with their surroundings. In performing this analysis, special scrutiny must be given to sensitive natural features. If we determine that a project's impact on its surroundings would be adverse in some manner, we then must determine whether the impact is "undue" because the project would violate an express community standard pertaining to aesthetics, would be offensive or shocking to the sensibilities of the average person, or has failed to incorporate reasonable mitigating steps which would improve its harmony with its surroundings.

B. The Quechee Valley Context

We have stated that the principal point of reference in appraising the Criterion 8 impact of a new development is the project's context. Our Findings of Fact (paragraphs 1 through 8) describe that existing context. In short, this portion of the Quechee Valley includes striking natural features, particularly the Ottauquechee River and the surrounding hillsides. The broad bend in the River creates an attractive natural setting.

However, as we have found, this natural setting has long since been altered by the man-made additions associated with a second home, four-season recreational resort area, such as condominiums, a high-voltage line, golf courses, tennis courts, an artificial lake, a clubhouse and roads and other support facilities. This particular bend in the Ottauquechee is now dominated by the conversion of a pastoral area into a recreational community.

Another important consideration discussed above is the identification of viewing points from which the project would be observed, the nature of the view at those observation points and the duration of the view. The Newton project will be visible from several prominent observation points. However, as we have found, the project is a substantial distance from these observation points, the project would be a component of the far middle-ground at these points, and the project will not be readily

distinguishable from the existing resort amenities which dominate the viewscape. Views of the site from Route 4 will be significant but brief in duration. These views will be further limited by existing and proposed vegetation.

The Murphy Farmstead project is significantly closer to the identified observation points but is in part screened from many of those points by the existing vegetated bank to the west of the site. Furthermore, we have found that QLC has carefully designed the project in a manner which should lead observers to consider the project as compatible with the existing farmstead character of the site.

Finally, the Golf Course Condominiums are nestled into the base of the existing vegetated hillside. The units are configured in a way that minimizes visibility from the outside and plantings selected by QLC should further protect existing views.

C. Newton Inn

Applying the standards identified above, we conclude that the Newton Inn would have an "adverse" impact on the ~~esthetics~~ aesthetics and the scenic and natural beauty of the area.

The project is compatible with its surroundings. The architectural style is similar to other projects in the area. The buildings' scale and the materials chosen are appropriate to the project's setting. The building mass is diminished through the segmentation of structures and by the creation of building clusters surrounded by open space. The density of the project is reduced by QLC's use of the natural slope and terracing at the site.

However, the project will have a significant impact on existing open space. While the dump/gravel pit portion of the site does not have positive aesthetic features, the project nonetheless will contribute to the depletion of open space in a portion of the QLC landholdings where open space is now at a premium. For this reason, we conclude that the project's impact is adverse with regard to scenic beauty and aesthetics.

However, we conclude that the adverse impact is not "undue." The record in this case does not include any clear, written community standard intended to preserve area aesthetics. The "Quechee Concept" is amorphous at best. It apparently has not been adopted as an official community standard in Hartford. Finally, the current viability of the "concept" is marginal in view of the repeated abrogations which have occurred regularly beginning in 1974 with the Saltbox project. No party has identified a community standard which comports with the **requirements** we discussed above.

The project does not offend the sensibilities of this Board. In fact, far from being offensive, shocking, out of character or significantly diminishing the scenic qualities of the area, the Newton project is compatible with the recreational resort context within which it is proposed.

Finally, we believe that QLC has made appropriate use of mitigating tools in an effort to reduce scenic intrusion. The **extensive landscaping** plan, preservation of existing trees and stone walls, use of the natural terracing of the site, and the reduction of building mass through a design which segments the proposed structures all act to reduce the negative aesthetic impact.

D. Murphy Farmstead

We cannot conclude that the Murphy Farmstead project will have an adverse impact on area aesthetics, scenic beauty and natural beauty. The Murphy site is one of those peculiarly sensitive natural features which, because it lies at the focal point of the Quechee Valley, requires special scrutiny under Criterion 8. However, QLC has responded to the challenges of this site with a design carefully calculated to keep visual intrusion to a minimum.

The Farmhouse renovations are, in a quite detailed manner, consistent with the historical style of the existing structure. The materials, colors, and designs chosen serve to perpetuate the architectural grace of the existing building. The placement of three units within this structure introduces an appropriate residential density.

The style chosen for the two barn-like buildings is also appropriate for the context. One's expectation for the existing site is to see structures which are agricultural in origin. The existing barn has little aesthetic value because it is not typical of area barns and its scale is not proportional to either the farmhouse or barns in the Quechee Valley. Most viewers will not mistake the new barn-like structures for cow barns; their function will be known to even the casual observer. However, the design, location, colors, and architectural features of the new buildings will be strongly agricultural in origin. While no one will be fooled about the buildings' function, most observers should associate the finished project with a traditional farmstead with its collection of buildings around a courtyard, an apple orchard and a near-by field.

Because we do not conclude that the project's impact is adverse, we need not proceed to the second tier of our aesthetics analysis.

E. Golf Course Condominiums

We also conclude that the Golf Course Condominiums will have an adverse impact on area aesthetics. Our principal concern is the project's consumption of limited open space. As is discussed more fully in section F, below, the Golf Course project, like the Newton project, will be located in a densely settled portion of the Quechee community, an area which has few remaining open spaces. This project contributes to the loss of open space.

In other respects, the project is well suited to its context. The architectural style, density, color, materials, and scale of the Golf Course units is similar to others in the Valley and falls well within a reasonable person's expectations for a recreational resort community which focuses much of its attention on two golf courses.

However, again, we conclude that the adverse impact of this project is not undue. We have previously concluded that no articulated community standard meeting the guidelines we established in section A, above, has been introduced into evidence in these appeals. The sensibilities of the members of the Board are not offended by the project. We find the project consistent with its context and well adapted to its site. Finally, QLC has taken available mitigating steps including the selection of an appropriate number of dwelling units, the location of structures at the base of the hillside, making use of existing vegetation, the orientation of buildings toward the center of the site in an effort to minimize impacts on views from the Village area, and the development of an extensive landscaping plan geared toward softening the impact of the new structures.

F. Glazing and Open Space

All three projects cause us some concern in that significant amounts of glazing are employed in the design of all structures. We inquired of QLC representatives concerning the glare characteristics of glass to be used and the impact of any such glare on area aesthetics. QLC representatives repeatedly assured the Board that little or no significant glare would be produced by the proposed designs. Our positive conclusions with regard to all three projects depend upon the accuracy of these representations. Therefore, we will reserve jurisdiction for a period of five years, beginning with the completion of all units within each project, to further evaluate the glare characteristics of glass after it is installed. We reserve the right to require retrofitting with glare-resistant glass should we determine that glare creates an undue aesthetic impact and that such retrofitting is a reasonable mitigating measure.

Our visit to the sites and surrounding areas, our review of aerial photographs, and our review of the testimony presented in **these** appeals supports a conclusion that QLC is rapidly depleting the limited open space remaining in the area bounded on the south by Route 4 and on all other sides by the Ottauquechee River. The Applicant has repeatedly confirmed its intention to preserve no less than 3,000 "open space" acres. It has stated that this open space is (and will continue to be) a mix of golf course areas, green spaces within and between building clusters, open fields, and wildlife preserves.

Our findings of fact and conclusions of law with regard to the Newton and Golf Course projects refer to the strongly negative impact of this rapid depletion of open space. We have found that this portion of the Quechee Valley is now devoted to recreational resort uses which to some extent conflict with the preservation of pastoral, scenic and natural vistas. However, the Valley retains substantial scenic beauty enjoyed by those who reside in and visit the Quechee resort. That scenic beauty will be destroyed should condominium clusters continue to march ad infinitum across the Valley landscape as they have marched since 1974. We make positive findings under Criterion 8 with regard to these projects only because we intend to hold QLC to its often-stated commitment to the preservation of open space.

The record of this case readily demonstrates the pitfalls of segmented, "piecemeal" review of a phased development. Since 1970, QLC has planned a large residential and recreational resort community comprising 6,000 acres. Development of that community has progressed on a project-by-project basis resulting in incremental loss of open space. However, the consumption of open space by any one such project has not been of sufficient magnitude to conclude that a project's impact on scenic beauty is "undue." In contrast, the collective impact of the open space intrusions which have occurred since 1974, and which are likely to continue as QLC works toward its 2,500 housing unit goal (including the Newton and Golf Course projects), may be sufficient to "offend the sensibilities of the average person." Unfortunately, we must in the context of these appeals focus on the pending proposals and cannot judge retroactively the impact of permitted projects on open space degradation. Nonetheless, because we have jurisdiction over the entire 6,000 acre QLC holdings and because we are entitled to rely on the Applicant's representations with regard to open space preservation, it is reasonable to impose a condition geared prospectively to preserve the contributions of open space to the scenic beauty of the Quechee Valley.

We will, therefore, direct QLC to prepare a comprehensive open space preservation plan. The plan shall include all current QLC holdings in the Quechee Valley area. The plan shall

depict with specificity all areas which QLC intends to preserve in perpetuity as open space. Preserved lands shall include a mix of wildlife habitat, open field and meadow, recreational amenity lands (golf courses, ski hill), and green spaces within and between existing or proposed dwellings. A reasonable portion of the designated open space shall be located in the heavily-settled area north of Route 4 within the Ottauquechee River oxbow. The plan shall specify the techniques to be used by QLC to preserve designated lands as open space. Finally, the plan shall describe the manner in which designated lands will be maintained.

QLC shall not file and the District #3 Commission shall not accept for filing any application for further development or subdivision of QLC lands until such time as the comprehensive open space plan has been filed with and accepted by the Commission. The Commission shall hold one or more public hearings and shall issue findings consistent with this decision prior to accepting the plan. All subsequent applications filed by QLC shall be judged under Criterion 8 with specific reference to consistency with the approved open space plan.

G. Newton Inn - Criteria 5 and 9(K)

We have found that the level of service of the Route 4 segment from Woodstock to Quechee Village is at the lowest rating - "E." The operation of the roadway has become so problematical that the Agency of Transportation has initiated a thorough evaluation of this segment in an effort to generate proposed solutions. The segment experiences extremely high traffic volumes, offers no opportunity to pass from Woodstock to Quechee, and does not have shoulders which allow cars to pull off or negotiate around left-turning vehicles.

However, the Transportation Board has established a policy discouraging new access points onto state highways. The policy is based upon the general proposition that additional access points create new opportunities for congestion and accidents. Criterion 9(K) provides, in part:

A permit will be granted for the development ... of lands adjacent to governmental and public utility facilities .. including .. highways ... when it is demonstrated that ... the development ... will not unnecessarily or unreasonably endanger the public or quasi-public investment in the facility
... (emphasis added)

The project proposal includes a new access running south from **Lakeland** Drive, an existing roadway which intersects with Route 4 east of the Newton site. Furthermore, while QLC controls a

right-of-way running easterly from the site to Lakeland Drive, insufficient evidence was provided by the Applicant concerning the feasibility of this access or the availability of other access routes from the project to Lakeland.

The burden of proof with regard to Criterion 9(K) resides with the Applicant. 10 V.S.A. § 6088. We conclude that the Applicant has failed to meet its burden of proving that the new Route 4 access is necessary in view of the potential danger introduced when a new access to that extremely busy, LOS "E" highway is added. We will, therefore, deny approval of the Route 4 access and invite the Applicant to submit an alternative proposal to the Commission./8/

V. ISSUANCE OF LAND USE PERMITS

In accordance with these findings of fact and conclusions of law, we will issue Land Use Permits #3W0411-EB and #3W0439-EB. The Board hereby incorporates by reference as if fully set forth, and adopts as its own, those findings of fact and conclusions of law reached by the Commission which were not appealed and which are not affected by our decision. The permits now issued approve the project subject to conditions:

- 1) Set forth in Land Use Permits #3W0411 and #3W0439 as issued by the Commission)
- 2) Reflected in the Commission's findings and conclusions which accompanied the above permits; and
- 3) Reflected in the Board's findings and conclusions set forth above.

Based upon the foregoing findings of fact and conclusions of law, it is the conclusion of the Board that the projects described in Land Use Permit Applications #3W0411 and #3W0439, if completed and maintained in accordance with all the terms and conditions of those applications, the exhibits presented to the Board and the Commission by the Applicant, and the conditions set forth in Land Use Permits #3W0411-EB and #3W0439-EB, will not cause or result in a detriment to the public health, safety or general welfare under the Criteria set forth in 10 V.S.A. § 6086(a).

/8/ An access to Route 4 from the Inn for the sole purpose of providing emergency access would not be inconsistent with our conclusions.

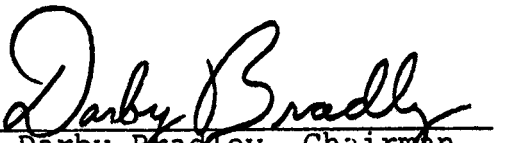
VI. ORDER

Land Use Permits #3W0411-EB and #3W0439-EB are hereby issued in accordance with the findings of fact and conclusions of law herein. Jurisdiction over these cases is returned to the District #3 Environmental Commission.

Dated at Montpelier, Vermont this 4th day of November, 1985.

ENVIRONMENTAL BOARD/9/

By:



Darby Bradley, Chairman
Ferdinand Bongartz
Lawrence H. Bruce, Jr.
Dwight E. Burnham, Sr.
Jan S. Eastman
Samuel Lloyd
Roger N. Miller

/9/ Board member Miller was absent from hearings held May 29, July 30, August 21 and August 28. Member Bruce was absent May 29, June 19, and July 30. Member Burnham was absent July 10. Member Lloyd was absent August 21. All four members reviewed transcripts for the dates of their absence.